

**IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE**

In re Application of: David E. Weinstein

Serial No.: 10/035,914

Examiner: Diana B. Johannsen

Group Art Unit: 1634

Filed: November 7, 2001

Docket No. 5402-9

For: METHODS FOR INHIBITING PROLIFERATION
OF ASTROCYTES AND ASTROCYTIC TUMOR
CELLS AND USES THEREOF

April 4, 2006

Mail Stop

Petitions Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED
NONPROVISIONAL APPLICATION UNDER
37 CFR § 1.137(b)**

Dear Sir/Madam:

Applicant hereby petitions the Commissioner to revive the above-identified nonprovisional patent application under 37 CFR § 1.137(b). Associated herewith is a credit card payment in the amount of \$750.00 for the Petition Fee as set forth in 37 CFR § 1.17(m). The Commissioner is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 503033.



No terminal disclaimer is required because this utility application was filed after June 8, 1995.

This application, as filed on November 7, 2001, contained 30 original claims. In a Reply dated December 4, 2002, and filed in response to a Restriction Requirement appearing in an Office Action, dated November 5, 2002, original claims 1-30 were cancelled without prejudice, and amended claims 31 -64 were added to the application.

Claims 31-64 were rejected by the Examiner in an Office Action dated January 9, 2004. In a reply dated August 9, 2004 (PAIRS docket date August 26, 2004), captioned AMENDMENT IN RESPONSE TO JANUARY 29, 2004 OFFICE ACTION AND REQUEST FOR THREE (3) MONTH EXTENSION OF TIME, applicant's former attorneys of record:

- 1) amended the title of the application;
- 2) amended claims 33 and 34 of the application; and
- 3) presented remarks opposing the Examiner's rejection of pending claims 31-64 under 35 USC § 112, First Paragraph and under 35 USC § 112, Second Paragraph.

By Notice of Informal or Non-Responsive Amendment, mailed on or about August 26, 2004, applicant's former attorneys of record were advised that the claim set appearing in the reply dated August 9, 2004 was noncompliant, owing to a failure to list canceled original claims 1-30, pursuant to the requirements of



MPEP 714.

Apparently, no response was made by applicant's former attorneys of record to the Notice of Informal of Non-Responsive Amendment mailed of August 26, 2004.

A request to withdraw as counsel was granted to applicant's former attorneys of record in August 2005. Consequently, no response was made to a second Notice of Informal of Non-Responsive Amendment mailed on January 12, 2005.

In a written summary of a first telephone interview of applicant's present attorney of record by the Examiner on October 27, 2005, the Examiner noted that

“while the Office's records indicate that this Notice [of Informal of Non-Responsive Amendment of January 12, 2005] was mailed with a Notice of Rescinded Abandonment on January 12, 2005, copies of both of these papers are missing from the Office's electronic [PAIRS] file, *indicating the possibility of an error on the part of the Office.*” (emphasis supplied)

In a written summary of a second telephone interview of applicant's present attorney of record by the Examiner on March 27, 2006, the foregoing advice was substantially repeated.

Accordingly, the above application has gone abandoned owing to applicant's unintentional failure to file a Response to a Notice of Informal of Non-Responsive Amendment, mailed on August 26, 2004 and again about



January 12, 2005.

Enclosed herewith is a Corrected Reply to the outstanding Notice of Informal of Non-Responsive Amendment in the form of a copy of the aforementioned AMENDMENT IN RESPONSE TO JANUARY 29, 2004 OFFICE ACTION AND REQUEST FOR THREE (3) MONTH EXTENSION OF TIME, *supplemented* with the claim listing that is required by MPEP 714, entitled **CORRECTED** AMENDMENT IN RESPONSE TO JANUARY 29, 2004 [NON-FINAL] OFFICE ACTION AND REQUEST FOR THREE (3) MONTH EXTENSION OF TIME

The entire delay in filing the required Corrected Reply before the due date for the Reply until the filing of this grantable petition pursuant to 37 CFR § 1.137 (b) was unintentional.

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